

The Higher Education Code of Governance

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CUC

Committee of University Chairs

The Higher Education Code of Governance

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Section 1: Introduction

Preface

Good governance is at the heart of the higher education (HE) sector in the UK, and will continue to be of the highest importance as it continues to develop. To support members of governing bodies, this HE Code of Governance (the Code) has been developed after wide consultation with CUC members and HE stakeholders.

The Code's primary audience is members of HE institution (HEI) governing bodies, and its purpose is to identify the key values and practices on which the effective governance of UK HEIs is based, in order to help deliver institutional mission and success. But achieving good governance within institutions does not rely solely on the adoption of the Code itself. Good governance requires a set of strong relationships based on mutual respect, trust and honesty to be maintained between the governing body, the Clerk to the Board, the Vice-Chancellor and the senior management team.

By visibly adopting the Code, governing bodies demonstrate leadership and stewardship in relation to the governance of their own institutions, and in doing so help to protect institutional reputation and provide a level of assurance to key stakeholders, partners including the student community, and society more widely. The Code needs to be read alongside the governing instruments of HEIs and relevant legal and regulatory requirements that, so far as possible, are not repeated in the Code itself.

As the expectations of governance change, this Code itself will be reviewed regularly to ensure that it remains fit for purpose; normally this will take place every four years, in consultation with the sector.

The Code is in three parts:

1. An initial statement of the core values providing the basis for the way that HE governance is conducted.
2. Identification of the seven primary elements of governance that support the values.
3. More detailed consideration of each of the primary elements providing illustrative guidance of how governing bodies could implement them.

In addition, the CUC website (www.universitychairs.ac.uk) holds detailed briefing papers providing extensive coverage of areas of concern to governing bodies, alongside illustrative practice drawn from across the sector on how institutions are meeting governance challenges.

Using the Code

While the Code is, in a literal sense, voluntary, it sets out principles and practices which any organisation operating within the sector will need to apply in order to show that it conducts its business with due respect for the public interest.

The diversity of the HE sector within the UK means that governing bodies will need to decide whether/how best to implement each primary element in order for it to be proportionate and effective; in particular Scottish institutions will need to look first to the Scottish Code of Good Higher Education Governance (<http://www.scottishuniversitygovernance.ac.uk>). Governing bodies will also need to consider how best to communicate to their stakeholders how they apply the primary elements. Reflecting these points, the Code is premised on an 'apply or explain' basis.

Reporting on the adoption of the Code is a valuable source of assurance to stakeholders who need to have confidence in the governance arrangements of organisations within the sector. Organisations that adopt the Code confirm that they do so within the framework of publicly available reporting on corporate governance e.g. annual reports or financial statements.

The primary elements are the hallmarks of effective governing bodies operating in the UK HE sector and 'apply or explain' means that in order to report that an institution has applied the Code a governing body needs to:

- 1. be confident that it has in place all of the primary elements. In order to do so it will be necessary for a governing body to meet or exceed the requirements of the supporting 'must' statements that prescribe essential components within the element; or**
- 2. explain where it considers a whole primary element or supporting 'must' statements inappropriate. In such cases the rationale should be clearly noted and the alternative arrangements summarised within an institution's report on its use of the Code.**

The word '*must*' identifies the essential behaviours and traits of effective governance.

Using the Code

Throughout the Code, ‘*should*’ statements illustrate the activities that are normally conducted in order to achieve the ‘*musts*’ outlined under each primary element. The ‘*should*’ activities are in turn accompanied by illustrative practice identified with the word ‘*could*’ that describes practices that engender positive governance outcomes.

Recognising the strength derived from the diversity and autonomy of the sector, governing bodies are free to achieve the expectations of the ‘must’ statements by the means and mechanisms appropriate to their own context and do not need to report where arrangements differ from those illustrated by the Code; however governing body members will wish to understand what those alternative mechanisms are and why they are more appropriate than the examples identified within the Code.

The additional guidance published on the CUC website is for information and reference only; organisations adopting the Code are not under an obligation to report whether, or how, the guidance is utilised.

The Core Values of Higher Education Governance

High-quality HE which commands public confidence and protects the reputation of the UK system rests on a number of shared values. A failure to adopt and implement agreed values in the practice of governance has implications beyond the institution concerned, by potentially undermining the collective reputation of UK HEIs.

In setting out core values, this Code adopts and builds on the ‘Nolan Principles of Public Life’¹, which provide an ethical framework for the personal behaviour of governors.

In addition, given the nature of HE, this Code is also based on the expectation that alongside specific measures of the Code, governing bodies will commit to:

- **Autonomy as the best guarantee of quality and international reputation.**
- **Academic freedom and high-quality research, scholarship and teaching.**
- **Protecting the collective student interest through good governance.**
- **The publication of accurate and transparent information that is publicly accessible.**
- **A recognition that accountability for funding derived directly from stakeholders requires HEIs to be clear that they are in a contract with stakeholders who pay for their service and expect clarity about what is received.**
- **The achievement of equality of opportunity and diversity throughout the institution.**
- **The principle that HE should be available to all those who are able to benefit from it.**
- **Full and transparent accountability for public funding.**

Within institutions it is important that the Executive, governing body and Secretary develop a shared understanding of these expectations and how they wish to apply the individual primary elements of the Code. Good governance requires more than the development of processes, since it is built on strong relationships, honest dialogue and mutual respect.

1 - Defined by the Nolan Committee as selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

See:

<https://www.gov.uk/government/publications/the-7-principles-of-public-life>

for further information.

The Seven Primary Elements of Higher Education Governance

This Code identifies the following primary elements of governance that underpin the values and beliefs outlined in the previous section:

- 1** The governing body is unambiguously and collectively accountable for institutional activities, taking all final decisions on matters of fundamental concern within its remit.
- 2** The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.
- 3** The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.
- 4** The governing body receives assurance that academic governance is effective by working with the Senate/Academic Board or equivalent as specified in its governing instruments.
- 5** The governing body works with the Executive to be assured that effective control and due diligence take place in relation to institutionally significant external activities.
- 6** The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.
- 7** The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

Each of these primary elements is outlined in detail within the following pages of the Code.

Section 2: The Code

The governing body is unambiguously and collectively accountable for institutional activities, taking all final decisions on matters of fundamental concern within its remit.

- 1.1** The governing body has a responsibility for all decisions that might have significant reputational or financial implications (including significant partnerships or collaborations). It **must** therefore seek assurance that the institution meets all legal and regulatory requirements imposed on it as a corporate body, including through instruments of governance such as statutes, ordinances and articles.
-
- 1.2** The regulatory and legal requirements will vary depending on the constitution of individual HEIs, but, for most governing bodies, members are charitable trustees and **must** comply with legislation governing charities and case law in the exercise of their duties. Some institutions are constituted as companies, and governing body members are normally the company's directors; the primary legislation in this case will be the requirements of the Companies Acts.
-
- 1.3** In both instances members are required to discharge their duties in line with the accepted standards of behaviour in public life, ultimately accepting individual and collective responsibility for the affairs of the institution. The main accountability requirements falling upon the governing body in respect of public funding are set out in financial memoranda issued by the funding bodies and these **must** be followed.
-
- 1.4** Student and staff members of the governing body share the same legal responsibilities and obligations as other members and **must not** be routinely excluded from discussions.
-

In meeting these legal obligations the governing body should:

Seek assurance that decisions which might have significant reputational or financial risks undergo a rigorous process of due diligence.

Obtain assurances that appropriate policies and procedures are consistently applied, and that there is compliance with relevant legislation.

Conduct its affairs in an open and transparent manner.

Clearly define and communicate the scope of its own responsibilities in the context of legislation, governing instruments and guidance including the HE code through a Statement of Primary Responsibilities².

Options the governing body could consider:

Adopting a clear scheme of delegation.

Asking its Audit Committee to ensure due diligence processes are reviewed.

Including an opinion to this effect within the annual Audit Committee Report by the governing body.

Including in its annual report a corporate governance statement which sets out the institution's governance arrangements (including the extent to which it has adopted this Code), policies on public disclosure and making the report widely available.

Publishing agendas and minutes of its meetings.

The governing body protects institutional reputation by being assured that clear regulations, policies and procedures that adhere to legislative and regulatory requirements are in place, ethical in nature, and followed.

- 2.1** In protecting the reputation of the institution the governing body will want to ensure the highest standards of ethical behaviour among its members, who **must** act ethically at all times in line with the accepted standards of behaviour in public life, and in the interests of the institution.
-
- 2.2** As such, members of governing bodies **must** act, and be perceived to act, impartially, and not be influenced by social or business relationships. A member who has a pecuniary, family or other personal interest in any matter under discussion **must** disclose the interest. A member does not necessarily have a pecuniary interest merely because he/she is a member of staff or a student.
-
- 2.3** The governing body **must** ensure that its decision-making processes are free of any undue pressures from external interest groups, including donors, alumni, corporate sponsors and political interest groups.
-
- 2.4** Members whose views are not consistent with the decisions of the governing body should abide by the principle of collective decision making and avoid putting specific interests before those of the institution. Individually they **must not** make any agreement for which they do not have authority.
-
- 2.5** Legislation requires that the governing body **must** take practical steps to ensure that the students' union or association operates in a fair, democratic, accountable and financially sustainable manner. This requirement is **in addition to** corporate and charity legislation that many student organisations are independently subject to.
-

In meeting these key requirements the governing body should:	Options the governing body could consider:
Approve a policy framework on ethics which includes appropriate measures of assurance.	<p>Receiving an annual report on the work of appropriate institution committees, possibly supplemented by the work of the Audit Committee.</p> <p>Developing specific policies of compliance and reporting in relation to aspects of research governance which raise particular sensitivities (e.g. animal experimentation) and which have well-established codes of practice.</p>
Approve a whistleblowing policy.	<p>Seek assurance that whistleblowing is effectively managed, for example by getting an annual report on numbers and outcomes of any whistleblowing; it might also ask about the extent to which the associated protocols are widely known within the institution.</p> <p>Asking its Audit Committee to get assurance on 'whistleblowing'.</p>
Receive assurance that its publications provide accurate and honest information about its activities.	Asking for an audit review of quality management systems within the publications process.
Benchmark institutional policies and practice against sector practice and external requirements.	Requesting its Audit Committee discuss with internal auditors how the institution compares with other organisations in areas undergoing audit.

The governing body ensures institutional sustainability by working with the Executive to set the institutional mission and strategy. In addition, it needs to be assured that appropriate steps are being taken to deliver them and that there are effective systems of control and risk management.

3.1 The governing body is responsible for the mission, character and reputation of the institution at a strategic level, and members will need to be adequately informed in order to carry out this key responsibility. They can expect the head of the institution to help them by providing strategic advice and guidance on the mission and strategic development of the institution.

3.2 The strategic plan plays a crucial role in ensuring the successful performance of the institution, and the governing body will want to demonstrate its commitment to and support for the plan by formally approving or endorsing it in accordance with its constitution. Aligned to this, it **must** ensure there is an appropriate financial strategy and be responsible, without delegation, for the approval of the annual budget.

3.3 It **must** rigorously assess all aspects of the institution's sustainability, in the broadest sense, using an appropriate range of mechanisms which include relevant key performance indicators (KPIs) not just for the financial sustainability of the institution but also for its impact on the environment.

3.4 In ensuring sustainability, the governing body **must** be in a position to explain the processes and the types of evidence used and provide any assurances required by funders. Where such assessments indicate serious issues which could affect future sustainability, the governing body **must** undertake appropriate remedial action.

Regulatory requirements

3.5 The governing body **must** receive assurance that the institution is meeting the conditions of funding as set by regulatory and funding bodies and other major institutional funders which include the requirements of the financial memoranda. These include the need to: use public funds for proper purposes and achieve good value for money; have a sound system of risk management, financial control and governance; ensure the use of regular, reliable, timely and adequate information to monitor performance and track the use of public funds; and safeguard institutional sustainability.

3.6 The governing body **must** periodically review the delegated authority of the accountable officer (usually the Vice-Chancellor) and inform its funding body of any 'material adverse' change in its circumstances and any serious incident which, in the judgement of the accountable officer and the governing body, could have a substantial impact on the interests of the institution.

3.7 Requirements of governing bodies as stipulated by the funding bodies relating to audit include: appointing the Audit Committee; considering and, where necessary, acting on the annual report from the Audit Committee; appointing the external auditors; considering the annual report of the internal audit service; and receiving and approving the audited annual financial statements (this responsibility to be reserved to the governing body for its collective decision, without delegation).

3.8 Data submitted for funding purposes on behalf of the governing body **must** comply with directions published by the respective funding body and includes: annual accountability returns; any data requested by the Higher Education Statistics Agency (HESA); any information needed for the purpose of charity regulation; and other information the funding body may reasonably request to understand the institution's risk status.

Day-to-day operations

3.9 Operational financial control will be exercised by officers of the institution under delegation from the governing body, and responsibility for financial management and advising on financial matters is generally delegated to the Director of Finance (or equivalent). That individual **must** have access to the head of the institution whenever he/she deems it appropriate.

3.10 The governing body **must** get assurance that there are effective arrangements in place for the management and quality assurance of data. To do so the governing body could seek assurance from the Audit Committee about data quality.

Audit

3.11 The Audit Committee needs to be a small, well-informed authoritative body which has the expertise and the time to examine risk management control and governance under delegation from the governing body. It cannot confine itself to financial matters, and its role extends to all areas of institutional activity. While responsibility for devising, developing and maintaining control systems lies with the Executive, internal audit provides independent assurance to the governing body which should have an approved annual audit plan (*it can delegate to its Audit Committee the power to agree the plan on its behalf*).

- 3.12 The Audit Committee **must** be composed of a majority of independent members (who may also be drawn from outside the governing body) and produce an annual report for the governing body, including: its opinion on the adequacy and effectiveness of the institution's risk management, control and governance arrangements; processes for promoting value for money (VFM) through economy, efficiency and effectiveness; and (in institutions receiving funding body support) the management and quality assurance of data.

Remuneration

- 3.13 The proper remuneration of all staff, especially the Vice-Chancellor and his/her immediate team, is an important part of ensuring institutional sustainability and protecting the reputation of the institution. Accordingly governing bodies **must** establish a Remuneration Committee to consider and determine, as a minimum, the emoluments of the Vice-Chancellor and other senior staff as prescribed in constitutional documents or by the governing body.

- 3.14 The Remuneration Committee composition **must** include the Chair of the governing body, be composed of a majority of independent members (who, as with audit, may also be drawn from outside the governing body) and have appropriate experience available to it. The Vice-Chancellor or other senior staff may not be members of, but may attend by invitation, Remuneration Committee meetings but **must not** be present for discussions that directly affect them. Remuneration Committees, when considering HoI remuneration, **must** be chaired by a senior independent governor who is not Chair of the board.

- 3.15 The Remuneration Committee **must** consider comparative information on the emoluments of employees within its remit when determining salaries, benefits and terms and conditions and ensure that all arrangements are unambiguous and diligently recorded. It **must** report on its decisions and operation at least annually to the governing body; such a report should not normally be withheld from any members of the governing body.

- 3.16 Remuneration Committee members **must** consider the public interest and the safeguarding of public funds alongside the interests of the institution when considering all forms of payment, reward and severance to the staff within its remit.

In meeting these key requirements the governing body should:

Be assured that the strategy is realistic, supported by, and aligned to other institutional strategies.

Be clear how institutional performance is measured, and identify what institutional-level KPIs and other performance measures are to be adopted within a risk-based framework and monitor these on a regular basis.

Be confident that the needs and interests of all stakeholders are adequately reflected in the strategic plan.

Have oversight of its approach to corporate and social responsibility.

Have clear policies on a range of institutional-level processes that it deems significant.

Options the governing body could consider:

Considering, approving and reviewing a number of sub-strategies. This will vary according to type of institution, but might, for example, include the widening participation strategy, financial and other resource strategies and internationalisation strategy.

Looking to the head of the institution to provide reports and updates on those aspects of the strategic plan being implemented in the year in question, and the resulting actions and results (such a report might explicitly demonstrate how the different sub-strategies are aligned and support the delivery of the overarching strategy).

Requiring an annual report including appropriate benchmarks to be produced and published.

Taking advice from the head of institution and other relevant sources (such as the ASSUR (annual sustainability assurance report) guidance), while being clear that the adoption of agreed KPIs is a governing body responsibility.

Look for specific references to some or all indicators of student satisfaction, research quality, business engagement, student experience and supporting graduate employment.

Receive reports from an appropriate committee, or agree a policy and ask for monitoring reports on implementation.

Periodically reviewing policies, for example, on access, alumni and development, treasury management, investment management, debt management and grants and contracts.

Requesting that these processes are properly examined by the institution's auditors.

In meeting these key requirements the governing body should:	Options the governing body could consider:
Have confidence in the arrangements for the provision of accurate and timely financial information, and in the financial systems used to generate such information.	Relying on assurances from its auditors.
Understand the financial implications of its institution's pension arrangements and any potential deficits.	Asking for a briefing from its Director of Finance. Commissioning an independent review by appropriate external firms.
Obtain assurance that potential deficits on pension funds are properly reported in the annual accounts.	Receiving assurance from its auditors.
Ensure that the Audit Committee undertakes regular reviews of its effectiveness, including benchmarking against good practice for audit committees in HE and more widely as appropriate.	Incorporating an assessment of compliance within any assessment of governance effectiveness.
Have an agreed annual audit plan.	Delegating to its Audit Committee the power to agree the plan.
Approve financial regulations.	
The annual corporate governance statement should describe the work of the Remuneration Committee.	

The governing body receives assurance that academic governance is effective by working with the Senate/Academic Board or equivalent as specified in its governing instruments in order to maintain quality.

4.1 A high-quality student experience and, where appropriate, research portfolio are determinants of institutional sustainability and are therefore core governing body responsibilities which it shares with the wider institutional community. This, taken with the governing body's responsibility for the long-term reputation of the institution, means that it **must** satisfy itself that academic governance is operating effectively.

4.2 The underlying principles of sound academic governance are based upon collegiality, and it follows that the governing body **must** therefore respect the role, as defined within charters, statutes or articles, of the Senate/Academic Board and other bodies involved in academic governance. However governing bodies will still wish to receive assurance that academic risks (such as those involving partnerships and collaboration, recruitment and retention, data provision, quality assurance and research integrity) are being effectively managed.

4.3 The governing body **must** understand and respect the principle of academic freedom, the ability within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges, and its responsibility to maintain and protect it as enshrined in freedom of speech legislation.

In meeting these key requirements the governing body should:

Oversee an effective academic strategy that it has approved. This strategy need not be a separate document, but may be embedded in an overall institutional strategy or be articulated in separate teaching, research and other strategies.

Have oversight of all major academic partnerships involving significant institutional-level risks.

Actively encourage student engagement in academic governance.

Seek assurance that student complaints are effectively addressed and that the welfare and wellbeing of students are secured.

Options the governing body could consider:

Receiving reports from Academic Board/Senate and monitoring with relevant performance measures that are credible to the academic community.

Examining the outcomes of academic governance effectiveness reviews and requesting that they be regularly conducted (nominally every four years).

Adopting and reviewing an internationalisation strategy (if active internationally).

Agreeing a scheme of delegation and a process of due diligence that defines major risk and allocates responsibility for decisions.

Receiving annual reports from relevant committees on the current status of high-risk partnerships.

Receiving regular reports from students' union or association officers and/or institution/student representation committees.

Receiving assurance that honest, accurate and timely information is provided to students, stakeholders and the public about all aspects of academic provision.

Requiring that summary reports are produced and considered (at least annually) on student complaints and appeals, taking into account – where appropriate – the requirements of the Office of the Independent Adjudicator.

The governing body works with the Executive to be assured that effective control and due diligence takes place in relation to institutionally significant external activities.

5.1 As already noted, the governing body has a responsibility to ensure the long-term sustainability of the institution and maintaining its reputation. It will therefore want assurance on external activities with significant potential financial or reputational risks. Where such activities involve commercial transactions, care **must** be taken to ensure that arrangements conform to the requirements of charity law and regulation. This is particularly the case where institutions have established subsidiary entities, for example separate operating companies or charitable trusts.

5.2 The governing body will also want to ensure that fund-raising, donations, corporate sponsored research and partnerships and similar activities do not inappropriately influence institutional independence, mission or academic integrity.

In meeting these key requirements the governing body should:

Get assurance on external activities with significant, institutional-level financial or reputational risks.

Get assurance that the board of any subsidiary entity possesses the attributes necessary to provide proper stewardship and control.

Be clear about its responsibilities in relation to any other corporate governance arrangements and associated reporting.

Retain unambiguous responsibility for approving and monitoring a clear institution-wide policy³ on development and fund-raising which identifies the processes for the scrutiny of proposed donations.

Options the governing body could consider:

Agreeing a scheme of delegation to make clear the authorisation requirements for approving such arrangements, including the circumstance where governing body approval is required.

Appointing suitably qualified directors or trustees to its board.

Requiring the entity's board to conduct its business in accordance with a recognised and appropriate code of governance.

Incorporating into its standing orders (or equivalent) its responsibilities regarding any group structures.

Receiving an annual report on development and fund-raising activity.

Element 5

3 - This would describe clear lines of responsibility and identify the individuals authorised to act

The governing body must promote equality and diversity throughout the institution, including in relation to its own operation.

6.1 HEIs are required by law to comply with extensive equality and diversity legislation, and governing bodies are legally responsible for ensuring the compliance of their institution. The legislation covers the individual rights of staff and students not to suffer discrimination on the grounds of a number of protected characteristics⁴. Legislation in this area does not distinguish between domestic and international students and staff.

6.2 Beyond this there is evidence that board diversity promotes more constructive and challenging dialogue, which in turn can improve governance outcomes by helping to avoid 'groupthink' and that as a result there is a strong business case for diversity alongside legal and moral expectation.

6.3 The governing body **must** ensure that there are arrangements in place to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between people who do and do not share a protected characteristic; and
- foster good relations between people who share and those who do not share a protected characteristic.

6.4 This means going further than simply avoiding discrimination, and it requires the active promotion of equality in a number of defined areas. The governing body **must** therefore satisfy itself that agreed action plans to implement the equality and diversity strategy are progressed throughout the institution.

6.5 The governing body **must** also routinely reflect on its own composition and consider taking steps to ensure that it reflects societal norms and values.

In meeting these key requirements the governing body should:

At a minimum, receive an annual equality monitoring report detailing work done by the institution during the year, identifying the achievement of agreed objectives, and summarising data on equality and diversity that institutions are required to produce (e.g. on staff recruitment and promotion).

Demonstrate through its own actions and behaviour its commitment to equality and diversity in all aspects of its affairs, particularly by agreeing its policy on recruiting new members.

Approve, review and report on the institution's approach to equality and diversity and its agreed indicators that measure performance.

Options the governing body could consider:

Discussing reports based on HESA data on staff and student profiles, the National Student Survey and material from the Equality Challenge Unit.

Requiring its committees to explain within their annual reports how decisions have taken account of the institution's equality and diversity policy.

Setting itself targets in terms of its own membership.

Advertising vacancies locally and nationally, including in local ethnic-minority publications, and via social media.

Using alumni, particularly as they may give access to a more diverse and younger pool of potential applicants.

Drawing on search consultancies who can sometimes access a broader pool.

Building a diverse pool for the future by providing training for potential governors, appointing them to sub-committees to gain experience, and providing other opportunities for their participation in board-related events.

Ensuring that the human resource management strategy takes equality and diversity into account and is monitored.

Approving and monitoring the delivery of a stand-alone equality and diversity strategy.

Including in its annual report a description of its policy on diversity, including any measurable objectives that it has set, and outlining progress on implementation.

Producing a separate equality and diversity report with a simple cross reference to the annual report.

The governing body must ensure that governance structures and processes are fit for purpose by referencing them against recognised standards of good practice.

Composition and appointments

7.1 The governing body **must** have a majority of external members, who are independent of the institution. All members should question intelligently, debate constructively, challenge rigorously, decide dispassionately and be sensitive to the views of others both inside and outside governing body meetings.

7.2 The governing body **must** have the power to remove any of its members from office, and must do so if a member breaches the terms of his/her appointment.

7.3 The governing body **must** establish a Nominations Committee (or similar) to advise it on the appointment of new members and the terms of existing members as well as the perceived skills balance required on the governing body. Normally final decisions on appointment are taken by the governing body.

7.4 The governing body will need to ensure suitable arrangements exist for the continuation of business in the absence of the Chair. In some cases arrangements for a Deputy Chair are codified within institutions' governing instruments; where they are not, the Nominations Committee can advise the governing body on what arrangements should be.

7.5 The Chair and Secretary will want to ensure all members receive an appropriate induction to their role and the institution as necessary.

7.6 There is an expectation, often enshrined within the constitutional documents of HEIs, that governing bodies will contain staff and student members and encourage their full and active participation.

7.7 Current normal practice is not to remunerate external members and to pay only travelling and other incidental expenses. However, if the governing body decides it is appropriate to remunerate, it will need to consider the:

- **provisions of charity and employment law;**
- **implications for the division of responsibilities between the governing body and the executive;**
- **public service ethos which applies generally among HE governors;**
- **need to be explicit about time commitments;**
- **need to apply a formal process of appraisal to the remunerated governor.**

Where it is decided to remunerate, payments would need to be both commensurate with the duties carried out and reported in the audited financial statements.

Operation

7.8 The Secretary (or Clerk) is responsible to the governing body for the provision of operational and legal advice in relation to compliance with governing instruments, including standing orders. He/she is also responsible for ensuring information provided to the governing body is timely, appropriate and enables an informed discussion so that it may effectively discharge its responsibilities.

7.9 All members of the governing body **must** have access to the services of the Clerk. Arrangements for the appointment or removal of the Secretary/Clerk may be defined by governing instruments; where they are not, it **must** be a decision for the governing body as a whole.

Review

7.10 Governing bodies need to adopt an approach of continuous improvement to governance, in order to enhance their own effectiveness and provide an example to institutions about the importance of review and evaluation.

7.11 Accordingly, governing bodies **must** conduct a regular, full and robust review of their effectiveness and that of their committees, the starting point for which should be an assessment against this Code and the statutory responsibilities alongside those which it has assumed and articulated independently (e.g. through a statement of primary responsibilities). Many governing bodies find an external perspective in this process useful, whether provided by specialist consultants or peer support from other governing bodies.

7.12 Codes of governance in other sectors adopt a period of two or three years. Recognising the need to balance the cyclical nature of HE and the impact this can have on the implementation and embedding of new practices, and the swiftly evolving HE and broader legislative environment, reviews **must** be conducted at least every four years with, as a minimum, an annual summary of progress towards achieving any outstanding actions arising from the last effectiveness reviews.

Acting on the outcomes of effectiveness reviews is as important as undertaking them, and it is desirable that outcomes and associated actions are reported widely, including in the corporate governance statements.

In meeting these key requirements the governing body should:

Ensure that the governing body has sufficient skills, knowledge and independence, including through the appointment of an independent Chair, to enable it to discharge its responsibilities.

Options the governing body could consider:

Regularly refreshing members' skills and knowledge through development activities funded by the institution, including annual appraisal with the Chair.

Appointing members for a given term, renewable subject to satisfactory performance. Renewals therefore are at the recommendation of the Nominations Committee and not an automatic process. External members not normally serving for more than two terms of four years, or three terms of three years, except where subsequently undertaking a new and more senior role (for example as Chair).

Satisfying itself that members are able to allocate sufficient time to undertake their duties effectively.

Giving an indication of the time expected of its members.

The formalisation of the role of a 'Deputy Chair', a role which – in addition to acting for the Chair in his/her absence – can provide a sounding board for the Chair, can act as an intermediary with other members as may be required, and potentially can be helpful if there are significant differences of view within a governing body or with the Executive. As a Deputy Chair may assume the responsibilities of the Chair, the expectation is they would be similarly independent of the institution.

Satisfying itself that plans are in place for an orderly succession of its membership, so as to maintain an appropriate balance of skills and experience with the progressive refreshing of key roles.

In meeting these key requirements the governing body should:

Be of sufficient size that its responsibilities can be undertaken effectively and speedily, without being so large that it becomes neither unwieldy nor too small.

Ensure it has rigorous and systematic processes agreed by the governing body for recruiting and retaining governors (including the Chair), on the basis of personal merit and the contribution they can bring to a governing body.

Issue an annual corporate governance statement describing the work of the key committees.

Annually reflect on the performance of the institution as a whole in meeting strategic objectives and associated measures of performance, and the contribution of the governing body to that success.

Options the governing body could consider:

Establishing a size within the range of 12-25 members, although there is no optimal governing body size, and total membership should depend on numerous factors including the nature and history of the HEI, the range of skills and experience required and the number of internal members deemed necessary.

Including written role descriptions and an analysis of the skills, experience and attributes required for membership.

Widely advertising vacancies in order to increase the pool of talent available.

Communicating and funding development opportunities within members' networks.

Appointing external members with direct senior experience of HE could also be considered to provide such understanding.

Including the governing body's recruitment policy and practices, and a description of its policy on equality and diversity and any measurable objectives that it has set together with progress in their implementation within the corporate governance statement.

Reflecting on the extent to which it and its committees have met their terms of reference and – where they exist – their annual work plans.

Benchmarking its performance and processes against other comparable HEIs, and relevant institutions outside the HE sector.

Annual review meetings of members with the Secretary compiling a report on the feedback provided.

Asking the Clerk to do an annual self-assessment (which could simply be an update from previous year) to assure the governing body that it properly and appropriately adheres to the principles of the Code.

Taking account of the views of the Executive, and relevant bodies such as the Senate/Academic Board, and staff and student communities.

Section 3: Appendices

Appendix 1: Statement of Primary Responsibilities

The principal responsibilities of the governing body should be set out in its Statement of Primary Responsibilities, which must be consistent with the institution's constitution. While there may be some variations because of different constitutional provisions, the principal responsibilities are likely to be as follows:

1. To approve the mission and strategic vision of the institution, long-term academic and business plans and key performance indicators, and to ensure that these meet the interests of stakeholders.
2. To ensure that processes are in place to monitor and evaluate the performance and effectiveness of the institution against the plans and approved key performance indicators, which should be – where possible and appropriate – benchmarked against other comparable institutions.
3. To delegate authority to the head of the institution, as chief executive, for the academic, corporate, financial, estate and human resource management of the institution. And to establish and keep under regular review the policies, procedures and limits within such management functions as shall be undertaken by and under the authority of the head of the institution.
4. To ensure the establishment and monitoring of systems of control and accountability, including financial and operational controls and risk assessment, and procedures for handling internal grievances and for managing conflicts of interest.
5. To establish processes to monitor and evaluate the performance and effectiveness of the governing body itself.
6. To conduct its business in accordance with best practice in HE corporate governance and with the principles of public life drawn up by the Committee on Standards in Public Life.
7. To safeguard the good name and values of the institution.
8. To appoint the head of the institution as chief executive, and to put in place suitable arrangements for monitoring his/her performance.
9. To appoint a Secretary to the governing body and to ensure that, if the person appointed has managerial responsibilities in the institution, there is an appropriate separation in the lines of accountability.
10. To be the employing authority for all staff in the institution and to be responsible for establishing a human resources strategy.
11. To be the principal financial and business authority of the institution, to ensure that proper books of account are kept, to approve the annual budget and financial statements, and to have overall responsibility for the institution's assets, property and estate.

Appendix 1: Statement of Primary Responsibilities

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12. To be the institution's legal authority and, as such, to ensure that systems are in place for meeting all the institution's legal obligations, including those arising from contracts and other legal commitments made in the institution's name.
 13. To receive assurance that adequate provision has been made for the general welfare of students.
 14. To act as trustee for any property, legacy, endowment, bequest or gift in support of the work and welfare of the institution.
 15. To ensure that the institution's constitution is followed at all times and that appropriate advice is available to enable this to happen.
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Appendix 2: Taxonomy

In addition to the 'must', 'should' and 'could' statements, the Code uses the following standard terms:

- *Clerk* used interchangeably with *Secretary*;
- *external members* for all non-executive governing body members from outside the institution irrespective of how they are appointed;
- *governing body* which in some HEIs is called the Council, Court or Board of Governors. It may also be the Board of Directors or equivalent;
- *head of institution* meaning the Vice-Chancellor, Principal or equivalent; and
- *members* for people appointed to the governing body.



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